

REMARKS

This application has been carefully reviewed in view of the above-referenced Office Action, and reconsideration is requested in view of the following remarks.

Regarding the Rejections Under 35 U.S.C. §103

Claims 1-57 were rejected as obvious based on various combinations of newly cited art. Claims 2-6, 13, 19-22, 24-27 and 36-57 have been cancelled without prejudice to simplify the issues. The various features of the cancelled claims have in many instances been incorporated into independent claims 1 and 23 as will be discussed below. Hence, it is submitted that no new claim elements are presented for consideration in this response.

Specifically regarding claim 1, this claim has been amended to call for all of the previously called out features, and in addition now calls for the stream of data to be selectively encrypted with the encrypted packets having a PID that is different from the PID of certain packets that are not encrypted. The claim now further calls for the packets selected for remapping to comprise certain of the encrypted packets. Further, the claim calls for the new packet identifier is a packet identifier used by certain of the unencrypted packets. Further, the claim now calls for decrypting the selected encrypted packets, and re-encrypting the decrypted packets and the certain of the encrypted packets, wherein the decrypted packets and the certain of the encrypted packets comprise packets that have the new packet identifier. While each of these features have been called out individually in the various dependent claims previously, there is no teaching or suggestion of the combination of each of these features.

In accord with *Graham v. John Deere*, 383 U. S. 1 (1966), the Supreme Court set out a framework for applying the statutory language of §103 in making an objective analysis of obviousness. The Court stated that "under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as

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commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented."

In the present case, none of the cited art teaches, suggests or hints at any desirability in the combination of processing a selectively encrypted stream of data in a CableCARD™ device, such process including (to paraphrase without intent of imposing additional limitations, but rather for clarity) receiving a selectively encrypted stream of data from a host with the encrypted packets have a PID different from packets that are not encrypted; selecting encrypted packets for remapping of the PIDs, so that the remapped PIDs of the encrypted packets match the PIDs of certain unencrypted packets and carrying out such remapping; decrypting the selected encrypted packets and then re-encrypting both the decrypted packets and certain of the unencrypted packets prior to transmission of the packets back to the host.

In accord with this analysis, while the Office Action may find some of the various features of the claims as amended present in certain art of record, there is no teaching of assembly of the various functions of claim 1 as amended in the specific arrangement now claimed. Moreover, one of ordinary skill in the art would not find the currently claimed combination obvious, when properly considered as a whole including all features and their interaction. Accordingly, it is submitted that claim 1 as amended, as well as all claims dependent thereupon are allowable over the cited art.

The undersigned notes that per *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006) - "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness"). It is further noted that MPEP2141.02 clearly requires that the claim be considered as a whole. Such consideration requires that each and every claimed feature as well as its interconnection and relationship with the other features be considered in evaluation of the differences in the claim and the prior art as required in the Graham inquiries. In order to establish *prima facie* obviousness, it is the Office's burden to consider each of the claim features and their interconnection and interrelationship and provide an articulated reasoning with rational underpinning for both the combination of claim features and the interrelationship of the claim features in order to establish *prima facie* obviousness. When these principles are applied, it is

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submitted that the claims as amended clearly meet the requirements for patentability. Hence reconsideration and allowance are respectfully requested.

Specifically regarding the claims dependent from claim 1, the above remarks are applicable. In addition, in the present case, the cited art fails to provide the claim elements described in the arrangement claimed. Hence, it is submitted that claims 1, 7-12 and 14-18 are patentable. Reconsideration and allowance are respectfully requested.

Specifically regarding independent claim 23, this claim has been amended in a manner similar to that of claim 1. Accordingly, the arguments presented above favoring patentability of claim 1 are also applicable. Reconsideration and allowance are respectfully requested.

Specifically regarding the claims dependent from claim 23, the above remarks are applicable. In addition, in the present case, the cited art fails to provide the claim elements described in the arrangement claimed. Hence, it is submitted that claims 23 and 28-35 are patentable. Reconsideration and allowance are respectfully requested.

Applicant submits herewith new claims 58-62 for consideration. These claims are submitted to distinguish over the cited art for all the reasons cited above and additionally call for the ability to selectively insert or substitute packets on a one to one basis, a one to many basis or a many to one basis. Consideration and allowance of this new claim is respectfully requested. This claim introduces only claim features previously called out in other claims.

Concluding Remarks

The undersigned notes that many other distinctions exist between the cited art and the claims. However, in view of the clear distinctions pointed out above, further discussion is believed to be unnecessary at this time. Failure to address each point raised in the Office Action

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should accordingly not be viewed as accession to the Examiner's position or an admission of any sort.

Interview Request

In view of this communication, all claims are now believed to be in condition for allowance and such is respectfully requested at an early date. If further matters remain to be resolved, the undersigned respectfully requests the courtesy of an interview. The undersigned can be reached at the telephone number below.

Respectfully submitted,

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